

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Amy E. Schmid on January 9, 2009.

The application has been amended as follows:

In the Claims

Claim 1, line 3 of claim:

before "carboxyl group", add --a-- .

Claim 6, line 1 of claim:

replace "product" with -- composition -- .

Claim 8, line 1:

after "DPP-IV," add -- wherein the disease is
diabetes -- .

Cancel **claim 9**.

Election/Restrictions

Claims 1, 6 and 10 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), claims 8 and 9, directed to the process of making or using the allowable product, previously withdrawn from consideration as a result of a restriction requirement of August 22, 2008, are hereby rejoined and fully examined for patentability under 37 CFR 1.104. Subject matter, directed to the invention(s) of Groups II and III do not require all the limitations of an allowable product claim, and have NOT been rejoined.

Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, **the restriction requirement between group I and the methods of use (added in the Amendment filed May 16, 2008) as set forth in the Office action mailed on August 22, 2008 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura L. Stockton whose telephone number is (571) 272-0710. The examiner can normally be reached on Monday-Friday from 6:00 am to 2:30 pm. If the examiner is out of the Office, the examiner's supervisor, Joseph McKane, can be reached on (571) 272-0699.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

The Official fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/Laura L. Stockton/
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